

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

**IN THE MATTER OF
Ron & Denise Schneider,
Petitioner-Appellants,**

v.

**Clayton County Board of Review,
Respondent-Appellee.**

ORDER

**Docket No. 09-22-0045
Parcel No. 21-27-205-001**

On August 26, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Ron and Denise Schneider, requested their appeal be considered without a hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated County Assessor Larry Hauser as its representative. The Board of Review also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Ron and Denise Schneider, owners of property located at 38198 Cherry Valley Road, Guttenberg, Iowa, appeal from the Clayton County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1568 square feet of above-grade living area, 1200 square feet of finished basement, a deck, and concrete patios. The dwelling was built in 2003 and is on 4.49 acres. The record indicates that there is an attached 28 foot by 36 foot tuck-under style garage in the basement.

The improvements have a grade classification of 4+10 and are in normal condition. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$169,358, representing \$24,282 in land value and \$145,076 in improvement value.

The Schneiders protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); that there was an error in the assessed under section 441.37(1)(d); and that there is fraud in the assessment under section 441.37(1)(e). They claimed that \$137,874, allocated \$24,282 to land and \$113,592 to improvements, was the actual value and a fair assessment of the property. The Board of Review denied the protest.

The Schneiders then appealed to this Board. They reasserted the claims of inequity and error and sought relief of \$31,484.

The Schneiders stated other properties that are the same size, have the same builder, have nicer landscaping, have attached garages, and have more finish, are assessed at the same or lower values than their property. They contend that their underground garage takes up one-half of their basement. They gave an example of another property, parcel #21-10-156-001, that they believed is similar to their property in age, basement size, square footage, and had an attached, rather than tuck-under garage. This property is assessed \$16,484 less than their property. Although parcel 21-10-156-001 has 112 square feet more living space than the subject and a larger attached garage; it has a lower grade classification than the subject property, is four years older, and has a full basement without any finish listed.

The Schneiders also provided information on eight area homes that they considered comparable to theirs. Four of the eight homes are manufactured or modular construction and one is a one-and-one-half-story home, all of which are dissimilar compared to the subject. The remaining three homes, excluding land value, range in assessed dwelling value from \$128,592 to \$152,008. The Schneider

dwelling is assessed at \$145,076 which is approximately the median of the three values. One of the dwellings, Parcel # 21-10-156-001, is approximately 100 square foot larger than the subject and is assessed for less at \$128,592; however it has no basement finish, is graded lower and is older than the subject. The second comparable, Parcel # 12-29-129-001, has less basement finish, is five years older, is graded the same and is approximately 120 square feet larger than the subject property. This dwelling is assessed at \$147,398 as compared to the \$145,076 dwelling assessment of the Schneider dwelling. Lastly, the third of the one-story properties is approximately 168 square feet larger than the subject and is similarly graded, but this property has no basement finish. We note that under the cost approach, the assessor has valued 1200 square feet of living quarters finish in the Schneiders' basement at \$18,000. Although the tuck-under garage occupies a portion of the basement area, it is only valued at \$3175 for the 368 square foot stalls, and the door openers.

Reviewing all the evidence, we find that although the Schneiders' January 1, 2009, assessment is higher than some of the properties they provided as comparables, it is reasonable given the dissimilarities of construction type, age, basement finish, and grade classification and does not suggest it is inequitably assessed. The Schneiders comment on an addition, basement finish, and similar upgrades known to exist in neighbors' properties that are omitted from their assessment. While these omissions suggest the other properties may be under assessed, they do not suggest the Schneiders' property is inequitably assessed. We do believe it advisable for the assessor to re-measure the Schneiders' basement to assure accuracy of the property record card data.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

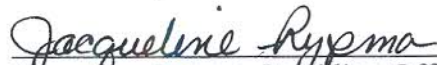
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Schneiders failed to present persuasive evidence sufficient to support the claim that assessment was not equitable as compared with assessments of other like property in the taxing district. The properties they provided as comparables had too many differences to make them truly comparable for assessment purposes without making adjustments.

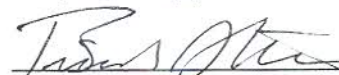
The Schneiders also indicated an error in the assessment; however the essence of their issue, as written, is over-assessment. In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence does not support a finding that the Schneiders' property is assessed for more than fair market value. Our review of the comparable properties provided, as adjusted for differences, supports the assessment as a reasonable indication of the fair market value of the Schneiders' property.


Viewing the evidence as a whole, we determine the Schneiders failed to prove that their property is inequitably assessed, or over-assessed. We, therefore, affirm the Schneiders' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2008, is \$169,358, representing, \$24,282 in land value and \$145,076 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Clayton County Board of Review is affirmed.

Dated this 21 day of October 2009.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

Copies to:
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APPELLANTS

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-31</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Handwritten Signature]</u>